IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 3380 of 2007()

CRA.53/2006 of ADDL.SESSIONS COURT,-I, MAVELIKKARA
CC.593/2003 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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REVN. PETITIONER: PETITIONER/APPELLANT/ACCUSED1

S.RATHEESH,S/O. SUKUMARAN,
KALLAMPARAMPIL VEEDU,PATHANAMTHITTA MUNICIAPL WARD VIII,COLLECTORATE MURI,PATHANAMTHITTA DISTRICT.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS: COMPLAINANT

STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J

Crl.R.P. No. 3380 of 2007

Dated: 26-09-2007

O R D E R

Revision Petitioner stands concurrently convicted for offences punishable under Sections 279 and 304 A I.P.C. and sentenced to simple imprisonment for one month and simple imprisonment for six months respectively.

2. The case of the prosecution as established through the evidence before the trial court is the following:-

On 7-4-2003 at about 3 p.m. the accused/revision petitioner drove a Scooter bearing Reg. No. KL-3/D.191 along the Moonnamkutty-Kappil Road from south to north. When he reached a bump ahead on the road, in order to avoid the bump he took the scooter towards the western road margin to a distance of 26 centimetres to the west of the western tarred edge of road and dashed against 60 year old Bhavani Amma standing on the road margin resulting in her succumbing to the injuries after 18 days. The facts of the case clearly establish that the revision petitioner drove the scooter in a rash and negligent manner endangering human life. The conviction was thus rightly entered against him.

3. The revision petitioner was aged 20 years on the date of

occurrence. He was, therefore, entitled to be either released on probation or liable to be admonished under the provisions of the Probation of Offenders Act, 1958. This aspect of the matter has been lost sight of by both the courts.

3. Accordingly, the sentence imposed on the revision petitioner is set aside and instead he shall be released on probation for an appropriate period for which purpose he shall surrender before the trial court on 25-10-2007. That court shall release him on probation on appropriate terms after getting a bond executed in that behalf. The revision petitioner shall also pay a sum of Rs. 10,000/- as compensation to the legal heirs of the deceased Bhavani Amma under Sec. 5 of the Probation of Offenders Act.

This Revision is disposed of as above.

V. Ramkumar, Judge.